

BOARD OF ZONING APPEALS
March 9, 2021

Virtual Meeting Due to COVID-19 Pandemic

The public may view the public meeting at:
www.youtube.com/user/cityofisleofpalms

Public Comment: Citizens may provide public comment here:
<https://www.iop.net/public-comment-form>

AGENDA

The Isle of Palms Board of Zoning Appeals will hold its regularly scheduled meeting on March 9, 2021 virtually at **4:30pm**.

- A. Call to order
- B. Acknowledgement that the meeting has been advertised in compliance with State law
- C. Approval of minutes of previous meeting: February 2, 2021
- D. Swearing of any person giving testimony
- E. Special Exceptions: Forest Trail Wastewater Treatment Plant
#80- 41st Avenue- modification of prior request
- F. Miscellaneous business
- G. Adjournment



BOARD OF ZONING APPEALS
4:30pm, Tuesday, February 3, 2021
Virtual Meeting via Zoom call due to COVID-19 Pandemic
broadcasted live on YouTube: <https://www.youtube.com/user/cityofisleofpalms>

MINUTES

1. Call to order

Present: Glenn Thornburg, Elizabeth Campsen, Arnold Karig, Brian Abel, and Douglas Kerr, Director of Planning

Absent: Carolyn Holscher

2. Approval of Previous Meeting's Minutes

Mr. Thornburg made a motion to approve the minutes of the January 5, 2021 meeting as presented, and Mr. Abel seconded the motion.

Mr. Karig asked for the correct spelling of his name in the minutes. Ms. Campsen noted the motion to approve for Item B under New Business was missing.

The amended minutes were approved unanimously.

3. Swearing in of applicants - none

4. Home Occupations

A. 625 Carolina Boulevard

Director Kerr said the applicant, Stephanie Pascarella, is requesting a special exception to run a e-commerce site from her home. There will be no employees and no traffic. Sales will be filled in Chattanooga, TN. The home will be used for office work only.

MOTION: Mr. Karig made a motion to approve the request, and Mr. Thornburg seconded the motion. The motion passed unanimously.

5. Review of Prior Orders for 624 Palm Boulevard and #80-41st Avenue

Director Kerr asked Board members if they had any further input or changes to the orders for 624 Palm Boulevard or #80-41st Avenue. Board members discussed the language regarding the greenspace at 624 Palm Boulevard. Director Kerr and Chair Campsen will come up with agreed upon language before signing the order.

Director Kerr said he has heard no concerns from the restaurant owners on the order as presented. He said the City and restaurant owners are working through the Noise Agreement now. It will be sent to Board members upon completion.

6. Miscellaneous Business

Director Kerr reported that the Water & Sewer Commission would be coming back before the Board soon requesting permission for an exception from the height requirement for the new waste water treatment plant. Their request is identical to the one approved by the Board 5-6 years ago. This approval is part of the process of decommissioning the old waste water treatment plant.

Director Kerr will invite City Attorney Hinchey to next month's meeting for the annual legal review.

7. Adjournment

Mr. Karig made a motion to adjourn, and Mr. Thornburg seconded the motion. The meeting was adjourned at approximately 4:49pm.

Respectfully submitted,

Nicole DeNeane
City Clerk

Appeal Number: 21-02

Applicant: Isle of Palms Water and Sewer Commission

Address: Waterway Boulevard and 41st Avenue (Forest Trails wastewater treatment facility)

Summary:

The Forest Trail wastewater treatment facility is in the SR1 zoning district (single-family residential). Section 5-4-32(9) of the City's code establishes criteria for the construction or alteration of wastewater treatment facilities. The code includes one set of criteria for alterations that can be approved by the Zoning Administrator and a second set of criteria that establishes alterations that must be approved by the Board of Zoning Appeals as a special exception.

The Water and Sewer Commission is proposing to expand the existing wastewater treatment facility. The proposal complies with all of the criteria for being eligible for approval by the Zoning Administrator with the exception of the height of the structure. Because the structure is higher than 30 feet, the replacement of the facility requires approval by the Board of Zoning Appeals as a special exception.

Request:

The applicant is requesting a special exception to allow the expansion of the wastewater treatment plant. The site is a 2.19-acre parcel on the corner of Waterway Boulevard and 41st Avenue. There are three proposed structures having a combined roof area of approximately 7,000 square feet. The existing roofed facility has a footprint of approximately 4,500 square feet. Additionally, the proposal includes approximately 5,600 additional square feet of treatment basins. The existing facility includes a basin of approximately 2,400 square feet.

The proposed lot coverage is less than 50%. The proposed structures and all existing structures comply with the setback requirement of 30 feet. The site has

an existing vegetative buffer compliant with Section 5-4-32(ii) 5. The proposed structure has a roof height of 39 feet above the road, which requires that a special exception be approved.

The applicant has stated that odor and noise control measures will be installed to protect adjacent properties.

Pertinent Zoning Ordinance Sections:

Section 5-4-32 SR-1 single-family residential district.

(9) *Public utilities and municipal uses.*

a. *Public utility facilities and uses.* This subsection (9)a applies to wastewater treatment facilities, public works maintenance and storage facilities, and all other public utility facilities or uses.

(i) Construction or alteration of a public utility facility may be approved in a residential zoning district as a conditional use subject to a finding by the Zoning Administrator that the facility satisfies all of the following conditions:

1. The facility is located on a lot that is at least one (1) acre in size;
2. The overall lot coverage of the facility is less than fifty percent (50%);
3. The minimum setback for any structure is thirty feet (30') from all property lines;
4. The maximum overall height of any structure is thirty feet (30');
5. The minimum buffer along all property lines is twenty feet (20') wide with at least six (6) canopy trees, twelve (12) understory trees, and one-hundred (100) three-gallon shrubs per one-hundred (100) linear feet of property line; with each species approved by the Zoning Administrator based on its ability to provide screening and drought tolerance;

(ii) The Board of Zoning Appeals may approve construction or alteration of a public utility facility in a residential zoning district as a special exception subject to the requirements of section 5-4-5(c) and upon a finding that the following additional conditions are met:

1. The facility is located on a lot that is at least one-half (1/2) acre in size;
2. The overall lot coverage of the facility is less than fifty percent (50%);
3. The minimum setback for any structure is twenty feet (20') from all property lines;
4. The maximum overall height of any structure is forty feet (40');
5. The minimum buffer along all property lines is ten feet (10') wide with at least six (6) canopy trees, twelve (12) understory trees, and one-hundred (100) three-gallon shrubs per one-hundred (100) linear feet of property line; with each species approved by the Zoning Administrator based on its ability to provide screening and drought tolerance.

Section 5-4-5 Appeals, variances and special exceptions

(c) *Special exceptions.*

1. Upon written application filed with the Zoning Administrator, the Board may grant as a special exception any use specified as a special exception in the zoning district regulations. In addition to the conditions generally required by the applicable zoning district regulations, the Board shall apply the following standards in deciding special exception applications:

- (1) Adequate provision shall be made for setbacks, fences, buffer or planting strips to protect adjacent properties from adverse impact of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion and similar factors.
- (2) Vehicular traffic and pedestrian movement on adjacent roads must not be hindered or endangered.
- (3) Off-street parking and loading areas and the entrances and exits for the use must be adequate in terms of location, number, design and construction to serve the use without adverse impact on adjacent properties.

- (4) The proposed use must not adversely affect the property values, the general character or the general welfare of the surrounding vicinity.

2. In granting a special exception, the Board may attach to it such conditions regarding the location, size, character, or other features of the proposed use as the Board may consider advisable in order to promote public health, safety, or general welfare. No special exception use may be altered or enlarged without the prior approval of the Board.

Board of Zoning Appeals

**Information Sheet
City of Isle of Palms**

Date Filed: 2/3/2021

Appeal Number 21-02

Instructions:

This form must be completed for a hearing on appeal from action of a zoning official, application for a variance, or application for a special exception. Entries must be printed or typewritten. If the applicant is not the owner of the property, all must sign.

An accurate, legible plot plan, showing all property dimensions and locations of all structures and improvements must be attached.

Property Address Forest Trails WWTP at Waterway Blvd & 41ST Avenue

Lot _____ Block _____ TMS 571-07-00-029

Area of Lot 2.18 Acres Zoning Classification SR1

Applicant(s) Name Isle of Palms Water and Sewer Commission

Address 1300 Palm Blvd., Isle of Palms, SC 29451

Telephone (843) 886-6148

Interest [i.e. owner, owner's attorney, architect, etc] Owner

Owner(s) [If different from applicant]

Name _____

Address _____

Telephone _____

I (We) certify that this application and all supporting documents attached are correct.

 GENERAL MANAGER
Applicant Signature/Date

Owner Signature (if different from applicant)/Date

**Zoning Board of Adjustment
Special Exception Application
City of Isle of Palms
Form - 4**

Date Filed: 2/3/2021

Appeal Number: 21-02

1. Applicant hereby appeals to the Zoning Board of Adjustment for a special exception for use of the property described in the Notice of Appeals [Form 1] as: Maximum overall height of structure is over 30-feet (but less than 40-feet). Height to be 39.0-feet above existing 41ST Avenue road elevation. which is a permitted special exception under the district regulation in Section 5-4-32(9) of the Zoning Ordinance.

2. Applicant will meet the standards in Section 5-4-5(c) of the Zoning Ordinance which are applicable to the proposed special exception in the following manner: 1) Adhere to setbacks;

2) Provide buffering; 3) Implement odor and noise control measures; 4) Use architectural features similar to phase

1 so facility fits into surroundings and looks less like a treatment facility 5) Use low profile roof.

3. Applicant suggests that the following conditions be imposed to meet the standards in the Zoning Ordinance: _____

4. The following documents are submitted in support of this application: a) site plan; b) elevation;

and c) rendering

[A plot plan must be submitted.]

Applicant Signature & Date

Section 5-4-5 Special Exception

(c) Special Exceptions. Upon written application filed with the Zoning Administrator, the Board of Adjustment may grant as a special exception any use specified as a special exception in the district regulations. In addition to the conditions required by district regulations, the Board shall apply the following standards in granting special exceptions:

(1) Adequate provisions shall be made for setbacks, fences, buffer or planting strips to protect adjacent properties from adverse impact of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion and similar factors.

(2) Vehicular traffic and pedestrian movement on adjacent roads must not be hindered or endangered.

(3) Off-street parking and loading area and the entrances and exits for the use must be adequate in terms of location, number, design and construction to serve the use without adverse impact on adjacent properties.

(4) The proposed use must not adversely affect the level of property values, the general character or general welfare of the nearby areas.



SECTION LOOKING NORTH
SCALE: VERT. 1/4" = 1'-0"

EXHIBIT B

FOREST TRAILS WWTP CONSOLIDATION

SECTION 1



ISLE OF PALMS SOUTH CAROLINA



Applicants: Jon Bushnell and Dave Lorenz

Address: #80- 41st Avenue- marina restaurant

Request:

At the January 5th, 2021 Board of Zoning Appeals meeting, the applicants were granted a special exception to allow additional outdoor seating from what had previously been approved on the Intracoastal Waterway side of the marina restaurant (see attached order).

Subsequently, the restaurant owners have started construction on the project, which uncovered significant structural deficiencies, which have caused them to want to alter the layout from what was originally reviewed and authorized by the Board.

Additionally, the plans for the outdoor area have been altered to include a bar.

Pertinent Zoning Code Sections:

Section 5-4-38(5)(b):

(b) Outdoor sale or rental of tangible personal property, in whole or in part, in the LC or GC-1 district is permitted only by special exception pursuant to section 5-4-5; provided, however, that outdoor sale or rental of any tangible personal property, including food and beverage, in whole or in part in the LC or GC-1 district within one hundred sixty feet of the OCRM baseline established along the beach of the Atlantic Ocean is strictly prohibited. All activity associated with outdoor sales or rentals in the LC and GC-1 districts must occur within the footprint of a permitted permanent structure. Any use of a mobile or temporary unit, including, but not limited to, food trucks, vehicles, trailers, and carts, is prohibited, except as provided in section 5-4- 38(5)(c) and 5-4-38(5)(d).

Section 5-4-5 (c):

(c) *Special exceptions.*

1. Upon written application filed with the Zoning Administrator, the Board may grant as a special exception any use specified as a special exception in the zoning district regulations. In addition to the conditions generally required by the applicable zoning district regulations, the Board shall apply the following standards in deciding special exception applications:
 - (1) Adequate provision shall be made for setbacks, fences, buffer or planting strips to protect adjacent properties from adverse impact of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion and similar factors.
 - (2) Vehicular traffic and pedestrian movement on adjacent roads must not be hindered or endangered.
 - (3) Off-street parking and loading areas and the entrances and exits for the use must be adequate in terms of location, number, design and construction to serve the use without adverse impact on adjacent properties.
 - (4) The proposed use must not adversely affect the property values, the general character or the general welfare of the surrounding vicinity.
2. In granting a special exception, the Board may attach to it such conditions regarding the location, size, character, or other features of the proposed use as the Board may consider advisable in order to promote public health, safety, or general welfare. No special exception use may be altered or enlarged without the prior approval of the Board.

REVISIONS:

NOTES:

WALL LEGEND

-  EXISTING WALL (TO REMAIN)
-  EXISTING COLUMN (TO REMAIN)
-  NEW WALL/COLUMN
-  NEW 5.5' BAR DIE WALL (40" HIGH TOP PLATE)

MAIN FLOOR FURNITURE PLAN

stumphouse
ARCHITECTURE + DESIGN
P. O. Box 20486
Charleston, SC 29413

SCOPE OF WORK NOTES

- A. NEW CIRCULAR "GRAND STAIRS" AT MAIN ENTRANCE WITH PLANTERS FLANKING AND NEW FLOOR2 ABOVE.
- A.2 NEW CIRCULAR "GRAND STAIRS" AT INTERSECTION OF ADA RAMP/PARKING LOT
- B. NEW EXTENSION OF EXISTING BAR BUILT TO CAPITALIZE ON THE EXISTING FOOTPRINT (WHOSE ELECTRICAL IS GRANDFATHERED)
- C. NEW ADA BATHROOMS
- D. NEW INTERIOR ACCESS TO NEW "LOWERED" DINING ROOM.
- E. NEW "LOWERED" DINING ROOM. EXISTING CEILING HEIGHT AND WALLS TO REMAIN. NEW WINDOWS OVERLOOKING AREA "G"
- F. NEW EGRESS/ACCESS CORRIDOR TO OUTDOOR BAR/DECK
- G. NEW OUTDOOR DECK AT FIRST FLOOR LEVEL. TO HOUSE COOLER, NEW OUTDOOR BAR AND DINING. ROOFED BY 2ND FLOOR EXTERIOR AREA.
- H. NEW COOLER LOCATION (FULLY OUTSIDE BUILDING FOOTPRINT)
- I. NEW VERTICAL EGRESS/ACCESS STAIR/RAMP. SOLID LINES ARE PATH TO FLOOR1. DASHED LINES ARE PATH TO FLOOR2.
- J. EXISTING LOADING DOCK TO REMAIN - BE REWORKED AS NEEDED.
- K. ELEVATOR (7'-1" x 8'-8" outside dimensions of shaft)
- L. EXISTING BAR TO BE DEMOLISHED - THIS IS NEW BAR LOCATION

THESE DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY OF STUMPHOUSE, LLC. ANY REUSE, REPRODUCTION, OR DISTRIBUTION OF THESE DRAWINGS OR SPECIFICATIONS WITHOUT THE WRITTEN CONSENT OF STUMPHOUSE, LLC IS STRICTLY PROHIBITED. ALL INFORMATION CONTAINED IN THESE DOCUMENTS, BOTH WRITTEN AND VISUAL, IS AND SHALL REMAIN THE PROPERTY OF STUMPHOUSE, LLC.

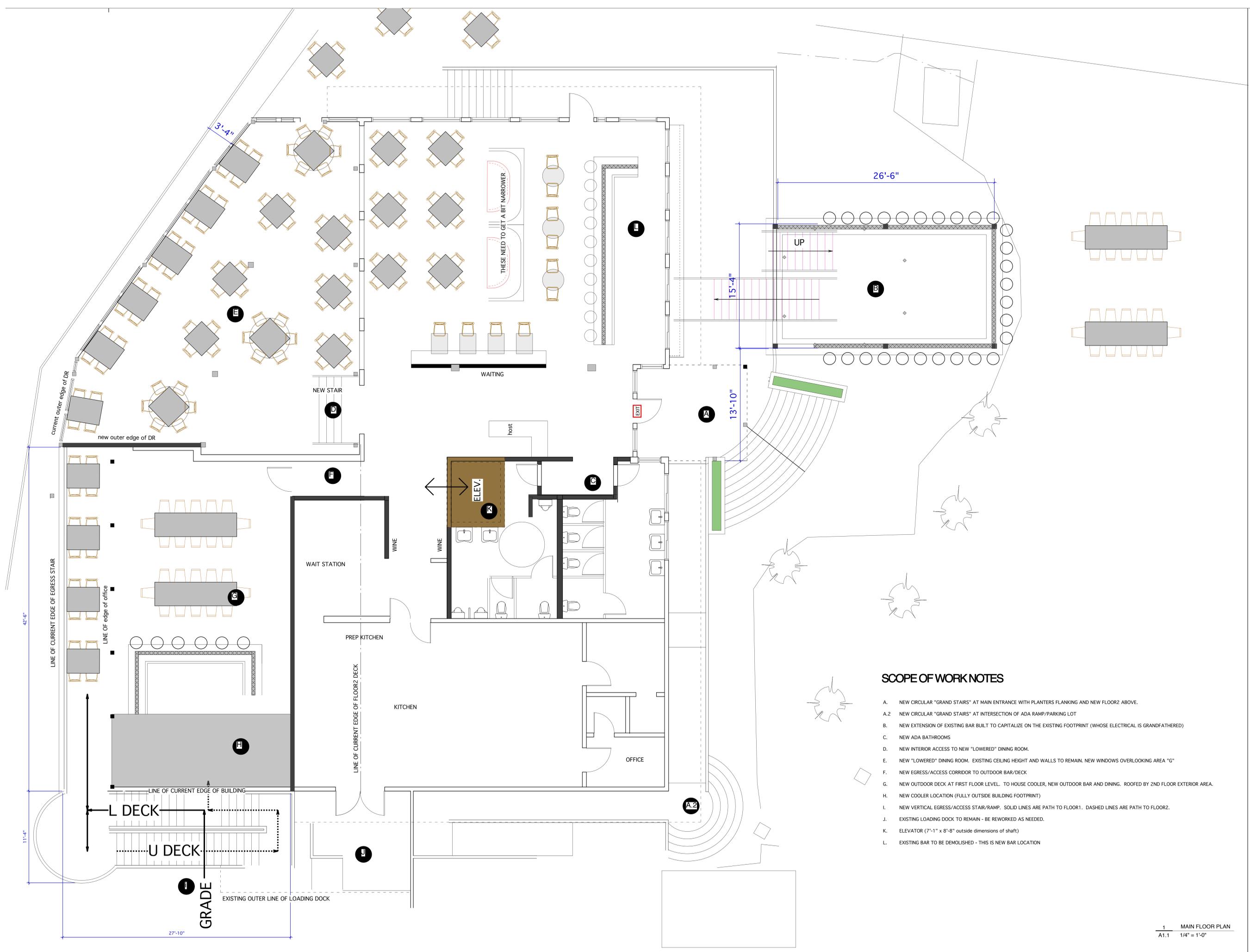
Scale: 1/4" = 1'-0"

Date: 21 JAN 2021

Drawing No.

F1.1

1 MAIN FLOOR PLAN
A1.1 1/4" = 1'-0"



THESE NEED TO GET A BIT NARROWER

UP

WAITING

NEW STAIR

host

ELEV.

WAIT STATION

PREP KITCHEN

KITCHEN

OFFICE

L DECK

U DECK

GRADE

EXISTING OUTER LINE OF LOADING DOCK

LINE OF CURRENT EDGE OF FLOOR2 DECK

LINE OF CURRENT EDGE OF EGRESS STAIR

LINE OF edge of office

LINE OF CURRENT EDGE OF BUILDING

current outer edge of DR

new outer edge of DR

42'-5"

11'-4"

27'-10"

26'-6"

15'-4"

13'-10"

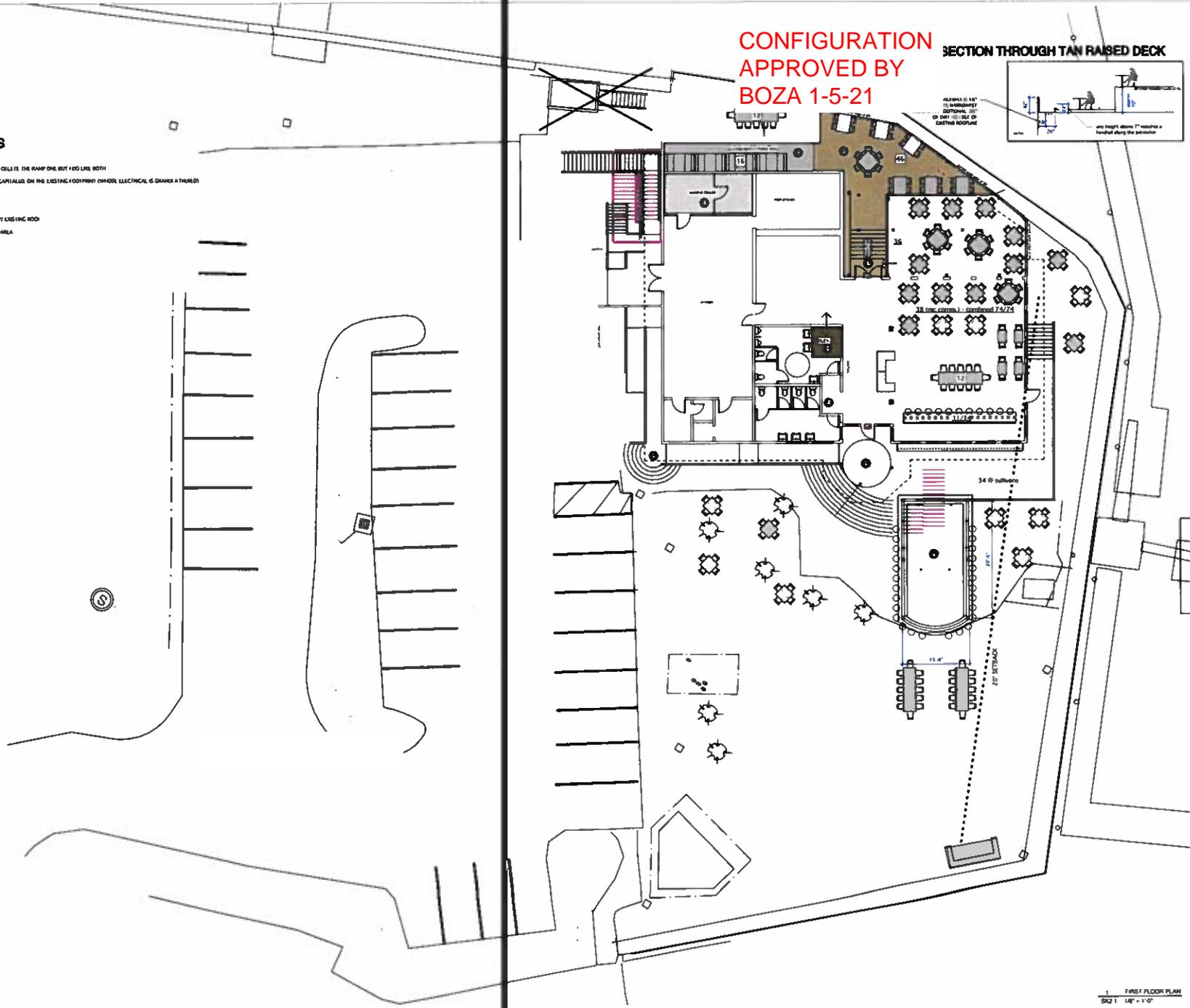
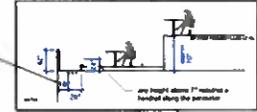
3'-4"

SCOPE OF WORK NOTES

- A. NEW DRINKING "ONWARD STAIRS" - WE COULD CALL IT THE RAMP ONE BUT FOO LIES BOTH
- B. NEW EXTENSION OF EXISTING BAN BUILT TO CAPITALS ON THE EXISTING FOOTPRINT (PHOTOS ELECTRICAL IS DRAWN A THRU)
- C. NEW ADA BATHROOMS
- D. NEW BLUE DECK EXTERIOR ACCESS
- E. NEW BLUE OPEN AIR DECK FULLY COVERED BY EXISTING ROOF
- F. NEW EXTERIOR SLATING IN PREVIOUS OH-C2 AREA
- G. REWORK TO SUPPORT COOLER
- H. ELEVATOR

**CONFIGURATION
APPROVED BY
BOZA 1-5-21**

SECTION THROUGH TAN RAISED DECK



**MORGAN
CREEK GRILL**
60 4187 Avenue
State of Palmetto, SC

REVISIONS

DATE

**FIRST
FLOOR PLAN**

stumphouse
P. O. Box 20466
Charleston, SC 29412

Scale: 1/8" = 1'-0"

Date: 15 DEC 2020

Drawing No.

SK2.1

1 FIRST FLOOR PLAN
SHEET 1 1/8" = 1'-0"

**Board of Zoning Appeals
Order on Special Exception
City of Isle of Palms**

Date filed: December 17, 2020

Appeal No. 20-15

The Board of Zoning Appeals held a public hearing on January 5, 2021 to consider the appeal of Jon Bushnell and Dave Lorenz for a special exception to allow for the outdoor service of food and drink, which may be permitted by the Board pursuant to Sections 5-4-5(c) and 5-4-38(5)(b) of the zoning ordinance as set forth on the application, which is attached as an exhibit to this order, for the property at #80- 41st Avenue. After consideration of the evidence and arguments presented, the Board makes the following finding of fact and conclusion.

The Board concludes that the standards in Section 5-4-5(c) and 5-4-38(5)(b) of the zoning ordinance which are applicable to the proposed special exception have been met based on the following finding of fact:

1. The existing restaurant is in the GC1 zoning district, which is a district that the City's Code authorizes the Board to grant a special exception to allow the outdoor sale of food and drink when certain conditions are met.
2. The Board concludes that prior restaurant operators have been granted special exceptions to allow for outdoor sale of food and drink.
3. The Board concludes that the proposed special exception will not substantially diminish value of adjacent property or property in the district based on the fact that the property has been historically used as a restaurant with outdoor seating including the outdoor service of food and drink.

THE BOARD, THEREFORE, ORDERS that the special exception is granted, subject to the following conditions:

1. The outdoor sale of food and drink be limited to no more than 64 seats or the maximum seating allowed by applicable codes on the open back deck, whichever is less.
2. The restaurant must operate in compliance with the City's noise ordinance including entering into a noise ordinance agreement, if loudspeakers are to be used.

Date issued: 1-5-2021


Elizabeth Campsen, Chairman

Date mailed to
Interested parties: 2-10-2021


Douglas Kerr, Secretary

Notice of appeal to Circuit Court must be filed within 30 days after this Order was mailed.